

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
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Chapter 9083
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17	CHAPTER 9083. HUDSPETH COUNTY WATER CONTROL AND IMPROVEMENT		
18	DISTRICT NO. 1		
19	SUBCHAPTER A. GENERAL PROVISIONS		
20	<u>Revised Law</u>		
21	Sec. 9083.0001.	DEFINITION. In this chapter, "district"	
22	means the Hudspeth County Water Control and Improvement District		
23	No. 1. (Acts 56th Leg., R.S., Ch. 299, Sec. 1 (part); New.)		
24	<u>Source Law</u>		
25	Sec. 1.	Hudspeth County Water Control and	
26	Improvement District Number One of Hudspeth County,		
27	Texas,		

1 Revisor's Note

2 The definition of "district" is added to the
3 revised law for drafting convenience and to eliminate
4 frequent, unnecessary repetition of the substance of
5 the definition.

6 Revised Law

7 Sec. 9083.0002. NATURE OF DISTRICT. The district is a
8 conservation and reclamation district established under Section
9 59, Article XVI, Texas Constitution. (Acts 56th Leg., R.S., Ch.
10 299, Secs. 1 (part), 7 (part).)

11 Source Law

12 Sec. 1. . . . Said District shall continue to
13 exist as a conservation and reclamation district
14 pursuant to Article XVI, Section 59 of the Texas
15 Constitution and

16 Sec. 7. . . . said District is established
17 under the provisions of Section 59 of Article XVI of
18 the Texas Constitution;

19 Revised Law

20 Sec. 9083.0003. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

21 (a) The district is essential to the accomplishment of the
22 preservation and conservation of the natural resources of the
23 state.

24 (b) All land and other property included in the district
25 will benefit from the district, the district's improvements, and
26 the purposes for which the district is created.

27 (c) This chapter addresses a subject in which the state is
28 interested. (Acts 56th Leg., R.S., Ch. 299, Secs. 2 (part), 7
29 (part).)

30 Source Law

31 Sec. 2. [The boundaries of said District
32 heretofore and herein established as follows:]
33 It is hereby found and determined that all lands and
34 other property included within the aforesaid
35 boundaries are and will be benefited by the District
36 and its improvements.

37 Sec. 7. [The Legislature hereby declares that
38 said District is established under the provisions of
39 Section 59 of Article XVI of the Texas Constitution;
40 that the enactment hereof is in fulfillment of a duty
41 imposed by said Constitutional provision to pass such

1 laws as may be appropriate in the preservation and
2 conservation of the natural resources of the state;]
3 that said District is essential to the accomplishment
4 of these purposes; that this Act operates upon a
5 subject in which the state at large is interested; that
6 all other land and property located within the limits
7 of the District is and will be benefited by the
8 purposes for which the District is created. . . .

9 Revised Law

10 Sec. 9083.0004. DISTRICT TERRITORY. (a) The district is
11 composed of the territory described by Section 2, Chapter 299, Acts
12 of the 56th Legislature, Regular Session, 1959, as that territory
13 may have been modified under:

- 14 (1) Subchapter J, Chapter 49, Water Code;
15 (2) Subchapter O, Chapter 51, Water Code; or
16 (3) other law.

17 (b) The district shall include all land and property in the
18 district's territory. (Acts 56th Leg., R.S., Ch. 299, Sec. 2
19 (part); New.)

20 Source Law

21 Sec. 2. [The boundaries of said District
22 heretofore and herein established as follows:] . . .
23 said District shall embrace all land and property
24 contained within the area delineated by said
25 boundaries. . . .

26 Revisor's Note

27 The revision of the law governing the district
28 does not revise the statutory language describing the
29 territory of the district to avoid the lengthy
30 recitation of the description and because that
31 description may not be accurate on the effective date
32 of the revision or at the time of a later reading. For
33 the reader's convenience, the revised law includes
34 references to the statutory description of the
35 district's territory and to statutory authority to
36 change the district's territory under Subchapter J,
37 Chapter 49, Water Code, applicable to the district
38 under Sections 49.001 and 49.002 of that chapter, and
39 Subchapter O, Chapter 51, Water Code, applicable to
40 water control and improvement districts. The revised

1 law also includes a reference to the general authority
2 of the legislature to enact other laws to change the
3 district's territory.

4 Revised Law

5 Sec. 9083.0005. LIBERAL CONSTRUCTION OF CHAPTER. This
6 chapter shall be liberally construed to effect its purposes. (Acts
7 56th Leg., R.S., Ch. 299, Sec. 7 (part).)

8 Source Law

9 Sec. 7. . . . All terms and provisions of this
10 Act are to be liberally construed to effectuate the
11 purpose and objectives herein set forth.

12 Revisor's Note

13 Section 7, Chapter 299, Acts of the 56th
14 Legislature, Regular Session, 1959, refers to the
15 "purpose and objectives" set forth in that act. The
16 revised law omits "objectives" as included in the
17 meaning of "purpose."

18 Revisor's Note
19 (End of Subchapter)

20 Section 7, Chapter 299, Acts of the 56th
21 Legislature, Regular Session, 1959, contains a
22 legislative declaration of a constitutional "duty" to
23 enact Chapter 299 as law. The revised law omits the
24 declaration by the legislature as executed and because
25 it has no substantive effect. The omitted law reads:

26 Sec. 7. The Legislature hereby
27 declares that [said District is established
28 under the provisions of Section 59 of
29 Article XVI of the Texas Constitution;]
30 that the enactment hereof is in fulfillment
31 of a duty imposed by said Constitutional
32 provision to pass such laws as may be
33 appropriate in the preservation and
34 conservation of the natural resources of
35 the state;

36 SUBCHAPTER B. BOARD OF DIRECTORS

37 Revised Law

38 Sec. 9083.0051. COMPOSITION OF BOARD. The board of
39 directors is composed of five elected directors. (New.)

1 Revisor's Note

2 (1) Section 4, Chapter 299, Acts of the 56th
3 Legislature, Regular Session, 1959, validates the
4 appointment or election of five named directors of the
5 district, provides that those directors continue to
6 serve until their successors are elected, and
7 establishes the dates that the terms of the named
8 directors expire. The revised law omits those
9 provisions as executed. For the reader's convenience,
10 the revised law substitutes a provision that states
11 the board is composed of five elected directors, which
12 conforms with the number of named directors in Section
13 4 and the requirement that successors be elected. The
14 omitted law reads:

15 Sec. 4. The appointment and/or
16 election of Directors of said District,
17 to-wit: Gene Wells, Manuel Lujan, Tom D.
18 Ellison, L. A. Snyder, and Clyde Fields is
19 hereby ratified, confirmed, approved and
20 validated and such Directors shall continue
21 to serve until their successors have been
22 duly elected and duly qualified as provided
23 by general law pertaining to Water Control
24 and Improvement Districts. The term of the
25 first two named Directors shall expire
26 January 1960, and the term of the last three
27 named Directors shall expire January
28 1961. . . .

29 (2) Section 4, Chapter 299, Acts of the 56th
30 Legislature, Regular Session, 1959, provides that
31 successor directors serve terms of two years. The
32 revised law omits that provision because it was
33 superseded by Section 49.103(a), Water Code, enacted
34 in 1995, which applies to the district under Sections
35 49.103(e), 49.001(a), and 49.002, Water Code, and
36 provides that directors serve staggered four-year
37 terms. The omitted law reads:

38 Sec. 4. . . . Successors in office
39 shall serve for terms of two years.

1 SUBCHAPTER C. POWERS AND DUTIES

2 Revised Law

3 Sec. 9083.0101. GENERAL POWERS. The district may exercise
4 the powers essential to the accomplishment of the purposes of
5 Section 59, Article XVI, Texas Constitution, and may exercise the
6 rights, powers, privileges, and functions implied by that section.
7 (Acts 56th Leg., R.S., Ch. 299, Sec. 1 (part).)

8 Source Law

9 Sec. 1. . . . [Said District shall continue to
10 exist as a conservation and reclamation district
11 pursuant to Article XVI, Section 59 of the Texas
12 Constitution and] shall be recognized to exercise all
13 of the powers and be a governmental agency and body
14 politic and corporate essential to the accomplishment
15 of the purposes of said constitutional provisions and
16 created to exercise such rights, powers, privileges
17 and functions as may be contemplated or implied by the
18 aforesaid constitutional provision,

19 Revisor's Note

20 (1) Section 1, Chapter 299, Acts of the 56th
21 Legislature, Regular Session, 1959, provides that the
22 district is a "governmental agency and body politic
23 and corporate." The revised law omits that provision
24 because it duplicates a portion of Section 59(b),
25 Article XVI, Texas Constitution, which provides that a
26 conservation and reclamation district is a
27 governmental agency and a body politic and corporate.

28 (2) Section 1, Chapter 299, Acts of the 56th
29 Legislature, Regular Session, 1959, refers to rights,
30 powers, privileges, and functions that are
31 "contemplated or implied" by Section 59, Article XVI,
32 Texas Constitution. The revised law omits
33 "contemplated" because the meaning of the term is
34 included in the meaning of "implied."

35 Revised Law

36 Sec. 9083.0102. WATER CONTROL AND IMPROVEMENT DISTRICT
37 POWERS. The district has the rights, powers, privileges, and
38 functions provided by general law applicable to a water control and

improvement district, including Chapters 49 and 51, Water Code.
(Acts 56th Leg., R.S., Ch. 299, Sec. 1 (part); New.)

Source Law

Sec. 1. . . . [Said District shall continue to exist as a conservation and reclamation district pursuant to Article XVI, Section 59 of the Texas Constitution and shall be recognized to exercise all of the powers and be a governmental agency and body politic and corporate essential to the accomplishment of the purposes of said constitutional provisions and created to exercise such rights, powers, privileges and functions as may be contemplated or implied by the aforesaid constitutional provision,] also those now or hereafter conferred by the General Laws of the state relating to Water Control and Improvement Districts wherein not in conflict with this Act.

Revisor's Note

(1) Section 1, Chapter 299, Acts of the 56th Legislature, Regular Session, 1959, refers to "the General Laws of the state relating to Water Control and Improvement Districts" For the reader's convenience, the revised law adds references to Chapter 49, Water Code, applicable to the district under Sections 49.001 and 49.002 of that chapter, and to Chapter 51, Water Code, applicable to water control and improvement districts.

(2) Section 1, Chapter 299, Acts of the 56th Legislature, Regular Session, 1959, provides that the district has the rights, powers, privileges, and functions provided by general law to water control and improvement districts "wherein not in conflict with this Act." The revised law omits the quoted language because that language duplicates, in substance, Section 311.026(b), Government Code (Code Construction Act), which provides that if there is a conflict between a general provision of law and a special or local provision, the special or local provision prevails unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

1 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

2 Revised Law

3 Sec. 9083.0151. TAX METHOD. (a) Taxes imposed by the
4 district shall be on the ad valorem basis.

5 (b) The district is not required to hold a hearing on the
6 plan of taxation. (Acts 56th Leg., R.S., Ch. 299, Sec. 5.)

7 Source Law

8 Sec. 5. All taxes levied by the District shall
9 be on the ad valorem basis and it shall not be
10 necessary for the District to have any hearings on the
11 plan of taxation.

12 Revisor's Note

13 Section 5, Chapter 299, Acts of the 56th
14 Legislature, Regular Session, 1959, refers to taxes
15 "levied" by the district. The revised law substitutes
16 "imposed" for "levied" because "impose" is the term
17 generally used in Title 1, Tax Code, and includes the
18 levy of an ad valorem tax.

19 Revisor's Note
20 (End of Chapter)

21 (1) Sections 1, 2, and 3, Chapter 299, Acts of
22 the 56th Legislature, Regular Session, 1959, validate
23 all proceedings and actions taken in the creation,
24 organization, and operation of the district, including
25 conducting elections, establishing the district's
26 territory, conducting hearings regarding property,
27 issuing bonds, and imposing taxes. The revised law
28 omits those validation provisions because they served
29 their purpose on the day they took effect and are
30 executed law. Section 311.031(a)(2), Government Code
31 (Code Construction Act), provides that the repeal of a
32 statute does not affect any validation previously made
33 under the statute. Therefore, the omission of the
34 executed validation provisions does not affect those
35 validations. The omitted law reads:

36 Sec. 1. All proceedings and actions

1 heretofore had and taken in the creation,
2 organization and operation of [Hudspeth
3 County Water Control and Improvement
4 District Number One of Hudspeth County,
5 Texas,] created or sought to be created
6 under the provisions of Article XVI,
7 Section 59 of the Texas Constitution and the
8 General Laws of the state enacted pursuant
9 thereto, are hereby in all things and in all
10 respects ratified, confirmed, approved and
11 validated as of the respective dates of such
12 proceedings and actions notwithstanding
13 that any of such proceedings and actions may
14 not have been had or accomplished in all
15 respects in strict accordance with the
16 appropriate statutory provisions relating
17 thereto. . . .

18 Sec. 2. [The boundaries of said
19 District] . . . are hereby in all things and
20 in all respects ratified, confirmed,
21 approved and validated and

22 Sec. 3. Without in anywise limiting
23 the generality of the foregoing the
24 following matters are hereby in all things
25 and in all respects ratified, confirmed,
26 approved and validated:

27 (a) All actions, orders, or other
28 proceedings of the Commissioners Court or
29 other officer of Hudspeth County, Texas, in
30 creating the District; calling, conducting
31 and declaring the results of the election
32 for the confirmation of such District and
33 the election of Directors therefor.

34 (b) All actions, orders or other
35 proceedings of the Board of Directors of the
36 District or any of its officers or any
37 person acting for it, in calling,
38 conducting and determining the results of
39 any hearing on the matter of the exclusion
40 of lands or other property from the
41 District;

42 (c) All bonds heretofore voted by the
43 District for the purpose of purchasing or
44 constructing a Water System and any
45 election at which such bonds were voted
46 notwithstanding the fact that the Board of
47 Directors or any of its officers or person
48 acting for it, may have failed to comply
49 with any statutory requirement regulating
50 the calling of such election, the giving of
51 proper notice with relation thereto, the
52 canvassing of the returns thereof and the
53 declaration of its results.

54 (d) All orders, resolutions, or other
55 proceedings of the Board of Directors in
56 authorizing the issuance of the
57 aforementioned bonds and the levying of
58 taxes for the support thereof,

59 (e) All actions of the Board of
60 Directors of the District in authorizing
61 the levying, assessment and collection of
62 taxes for the said District and in adopting
63 its tax rolls.

64 (2) Section 3(d), Chapter 299, Acts of the 56th
65 Legislature, Regular Session, 1959, provides that

1 after approval (or validation), registration, sale,
2 and delivery, district bonds approved at an election
3 held before May 30, 1959 (the effective date of Chapter
4 299), to purchase or construct a water system are valid
5 and incontestable. The revised law omits the
6 provision as executed. The omitted law reads:

7 Sec. 3. [Without in anywise limiting
8 the generality of the foregoing the
9 following matters are hereby in all things
10 and in all respects ratified, confirmed,
11 approved and validated:

12 . . .
13 [(c) All bonds heretofore voted by
14 the District for the purpose of purchasing
15 or constructing a Water System and any
16 election at which such bonds were voted
17 . . .

18 [(d) All orders, resolutions, or
19 other proceedings of the Board of Directors
20 in authorizing the issuance of the
21 aforementioned bonds and the levying of
22 taxes for the support thereof,] it being
23 hereby provided that when the Attorney
24 General has approved such bonds, or if such
25 bonds are validated by a District Court
26 under the provisions of the General Laws
27 relating to Water Control and Improvement
28 Districts, and they have been registered by
29 the Comptroller of Public Accounts and sold
30 and delivered they shall be legal, valid and
31 enforceable obligations of the District and
32 shall be incontestable.
33 . . .

34 (3) Section 6, Chapter 299, Acts of the 56th
35 Legislature, Regular Session, 1959, lists the entities
36 for which district bonds are legal investments and
37 provides that district bonds may secure deposits of
38 public funds of the state or political subdivisions.
39 The revised law omits the provision relating to the
40 eligibility of district bonds to be considered as
41 investments for various entities because it
42 duplicates, in substance, Section 49.186(a), Water
43 Code, applicable to the district under Sections 49.001
44 and 49.002 of that code. While Section 6 lists
45 "guardians" and Section 49.186(a), Water Code, does
46 not, Section 49.186(a) includes "fiduciaries," and a
47 guardian is a fiduciary. The revised law omits the

1 provision relating to the use of district bonds as
2 security for deposits of state funds as impliedly
3 repealed by Section 404.0221, Government Code (enacted
4 in 1995), which lists eligible collateral for deposits
5 of state funds by the comptroller, and by Section
6 404.031, Government Code (enacted in 1985 as Section
7 3.001, Article 4393-1, Vernon's Texas Civil Statutes),
8 which provides for the valuation of that collateral.
9 As to securing deposits of other funds, the provision
10 is impliedly repealed by Chapter 2257, Government Code
11 (enacted in 1989 as Article 2529d, Vernon's Texas Civil
12 Statutes), which governs eligible collateral for
13 deposits of funds of other public agencies, including
14 political subdivisions, and permits those deposits to
15 be secured by obligations issued by conservation and
16 reclamation districts. The omitted law reads:

17 Sec. 6. All bonds of the District
18 shall be and are hereby declared to be legal
19 and authorized investments for banks,
20 savings banks, trust companies, building
21 and loan associations, insurance companies,
22 fiduciaries, trustees, guardians, and for
23 the sinking funds of cities, towns,
24 villages, counties, school districts or
25 other political corporations or
26 subdivisions of the State of Texas. Such
27 bonds shall be eligible to secure the
28 deposit of any and all public funds of the
29 State of Texas and any and all public funds
30 of cities, towns, villages, counties,
31 school districts or other political
32 corporations or subdivisions of the State
33 of Texas; and such bonds shall be lawful and
34 sufficient security for said deposits to
35 the extent of their par value.